



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200239036

JUL -3 2002

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Uniform Issue List: 414.08-00

Attn:

Church K.....

Corporation A.....

Organization B.....

Corporation C.....

State M.....

Plan X.....

Dear

This is in response to a letter dated November 13, 2001, as supplemented by additional correspondence dated March 8, 2002, in which your authorized representative requested a ruling on your behalf under section 414(e) of the Internal Revenue Code (the "Code"). You submitted the following facts and representations in support of your request.

Corporation A was founded by Organization B. All members of Corporation C must be approved by the President of Corporation C, and the President of Corporation C must be a member of Organization B. Organization B and is a non-stock, non-membership corporation organized under the laws of State M as a non-profit corporation. Corporation A is a resident care facility for the sick and elderly and has as its primary purpose the provision of medical, nursing, convalescent and rehabilitation services to senior citizens in the northern region of State M. The bylaws of Corporation A (the "Bylaws") provide that it shall adhere to all government laws and regulations which are consistent with the moral teachings of Church K, and that the ethical and religious directives of Church K shall govern its professional conduct. Corporation A is listed in the official directory of Church K and is exempt from tax under Code section 501(a) as an organization described in section 501(c)(3).

Corporation C is a corporation organized as a non-profit organization under the laws of State

M. Corporation C was established by Organization B as the legal entity under which Organization B carries out and fulfills the religious teachings, beliefs, and activities of Church K, including engaging in charitable works such as the establishment and maintenance of care facilities for the ill and elderly. Organization B and Corporation C are listed in the official directory of Church K.

Corporation A is operated by a board of directors (the "Board") which is the governing body of Corporation A. Under Corporation A's Bylaws, the Board is required to have at least five directors and no more than 11 directors. The President of Corporation C and the President of Corporation A are ex officio members of the Board, and one Board member must always be occupied by a member of the medical staff of Corporation A. A committee established by Corporation A recommends individual directors for appointment to the Board, and each candidate must then be approved by the President of Corporation C. The Bylaws provide that the members must be selected from persons who will promote the goals and philosophy of Corporation A, and uphold the religious directives of Church K. The Chairperson of Corporation A's Board of Directors must be the President of Corporation C, and the Chairperson appoints the President of Corporation A.

Corporation A established a defined contribution plan intended to be described in Code sections 401(a) and 401(k) ("Plan X"). The most recent favorable determination letter was issued by the Service on July 15, 1999. Corporation A also maintains an insurance and dental welfare benefit plans for its employees. Corporation A established a committee (the "Committee") the principal purpose and function of which is the administration of Plan X and the two welfare benefit plans (collectively, the "Plans"). The President and Treasurer of Corporation A serve on the Committee, as well as members of Corporation A's finance committee who are appointed by the Board.

Based on the above facts and representations, you request a ruling that the Plans constitute church plans as described in Code section 414(e).

To qualify under Code section 401(a), an employees' plan must meet certain requirements, including the minimum participation rules under section 410 and the minimum vesting requirements under section 411. A church plan described in section 414(e), however, is excepted from these requirements unless an election is made in accordance with section 410(d) to have such requirements apply. Where no election is made under section 410(d), a church plan described in section 414(e) shall be treated as a qualified plan for purposes of section 401(a) if such plan meets the participation, vesting and funding requirements of the Code as in effect on September 1, 1974.

Code section 414(e) generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501.

Code section 414(e)(3)(A) provides that a plan will be treated as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Code section 414(e)(3)(B) provides that an employee of a church or convention or association of churches shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501, and which is controlled by or associated with a church or a convention or association of churches.

Code section 414(e)(3)(C) provides that a church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

Code section 414(e)(3)(D) provides that an organization, whether a civil law corporation or otherwise, is "associated" with a church or convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

In order for an organization that is not itself a church or convention or association of churches to have a church plan under Code section 414(e), that organization must establish that its employees are employees or deemed employees of a church or convention or association of churches under section 414(e)(3)(B). Employees of such an organization maintaining a plan are considered to be a church employee if the organization: (1) is exempt from tax under section 501, (2) is controlled by or associated with a church or convention or association of churches, and (3) provides for administration or funding of the plan by an organization described in section 414(e)(3)(A).

In this case, Corporation A, Organization B and Corporation C are all listed in Church K's official directory. The Service has ruled that any organization listed or appearing in the Church K's official directory is an organization described in Code section 501(c)(3) and exempt from tax under section 501(a). Corporation A was established by Organization B and has as its purpose the provision of medical, nursing, convalescent and rehabilitation services to senior citizens in the northern region of State M in a manner consistent with the religious directives of Church K. In addition, Corporation A's Board is the governing body of Corporation A. Each member of Corporation A's Board must be approved by the President of Corporation C. Because Corporation A, Organization B, and Corporation C are all listed in Church K's official directory, these organizations share religious bonds and convictions with Church K, and are therefore considered to be "associated" with Church K under the church plan rules. Accordingly, because the employees of Corporation A are employed by an organization that is exempt from tax under Code section 501(a) and associated with a church or convention or association of churches (i.e.,

Church K), these employees are deemed to be Church K employees under section 414(e)(3)(B). Conversely, Church K is considered to be the employer of the employees of Corporation A under section 414(e)(3)(C).


In addition, the Plans are administered by a Committee appointed by Corporation A. Pursuant to a Board resolution, the principal purpose and function of the Committee are to administer the Plans. Thus, the Committee is associated with or controlled by a church or a convention or association of churches. Accordingly, we rule that, with respect to your ruling request, the Plans constitute church plans described under Code section 414(e).

This letter expresses no opinion as to whether Plan X satisfies the requirements for qualification under Code section 401(a). The determination as to whether a plan is qualified under section 401(a) is within the jurisdiction of the Manager, Employee Plans Determinations Programs, Cincinnati, Ohio. This letter also does not express any opinion regarding whether the dental and insurance plans constitute welfare benefit plans under section 419(e).

This ruling is directed only to the taxpayer who requested it. Code section 6110(k)(3) provides that it may not be used or cited by others as precedent.

The original of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office. Should you have any questions or concerns, please contact

Sincerely yours,



Andrew E. Zuckerman, Manager
Employee Plans Technical Group 1

Enclosures:

Copy of deleted letter
Notice 437

cc: